

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

BMC SOFTWARE, INC.,

Plaintiff,

v.

SERVICENOW, INC.,

Defendant.

Case No. 2:14-cv-903-JRG

JURY TRIAL DEMANDED

**DEFENDANT SERVICENOW, INC.’S NOTICE OF REDUCTION OF
PRIOR ART REFERENCES**

Pursuant to the Court’s Order (Dkt. 143), defendant ServiceNow, Inc. (“ServiceNow”) hereby elects the 40 combinations of prior art references listed below.¹ ServiceNow reserves the right to seek leave of court to modify this list should further discovery or other circumstances so merit. ServiceNow also reserves the right to present evidence of the background state of the art including admissions by the patentee regarding the prior art.

1. U.S. Patent No. 5,442,791 (“Wrabetz”)
2. Satool prior art (“satool”)² and Wall, “Programming perl” (1991)
3. DDS/Patrol prior art (“DDS/Patrol”)³
4. DOS Batch File prior art (“DOS Batch File”)⁴

¹ ServiceNow notes that the Model Order Focusing Patent Claims and Prior Art To Reduce Costs provides that “a prior art instrumentality (such as a device or process) and associated references that describe that instrumentality shall count as one reference, as shall the closely related work of a single prior artist.”

² See Exhibits A-19 and A-30 to ServiceNow’s Invalidity Contentions.

³ See Exhibits A-2 and A-3 to ServiceNow’s Invalidity Contentions.

⁴ See Exhibits A-10, A-13, and A-45 to ServiceNow’s Invalidity Contentions.

5. Kislitzin, “Network Monitoring by Scripts” (October 17-19, 1990) and Goldszmidt, “Network Management by Delegation – The MAD Approach” (October 1991)
6. VisiNet prior art (“VisiNet”)⁵
7. U.S. Patent No. 6,393,386 (“Zager”) and U.S. Patent No. 7,281,170 (“Taylor”)
8. Malin, “Making Intelligent Systems Team Players: Additional Case Studies” (December 1993) (“Malin”)
9. Malin and Zager
10. Zager, Malin, and U.S. Patent No. 5,761,502 (“Jacobs”)
11. Gensym prior art (“Gensym”)⁶
12. BMC Patrol Diagnose prior art (“Patrol Diagnose”)⁷ and Gensym
13. Gensym and Warpenburg, “Patrol Root Cause Analysis” (June 30, 1999)
14. Twidle, “Domain Services for Distributed Systems Management” (May 1993)
15. Aschemann, “Towards a Requirements-Based Information Model for Configuration Management” (May 1998) and Myers, “The Prototype-Instance Object Systems in Amulet and Garnet” (1998)
16. “Object Hierarchy and Inheritance in JavaScript” (Dec. 18, 1997) and Rose, “The SIMPLE Book: An Introduction to Internet Management” (1994)
17. U.S. Patent No. 5,956,715 (“Glasser”) and Davis, “The Windows 95 Bible” (1996) (“Davis”)
18. Glasser, Davis and Microsoft Windows 95 OS
19. U.S. Patent No. 5,659,736 (“Hasegawa”) and Ambler, “Building Object Applications That Work” (1998)

⁵ See Exhibits A-39 and A-40 to ServiceNow’s Invalidity Contentions.

⁶ See Exhibits D-13, D-14, D-16, and D-18 to ServiceNow’s Invalidity Contentions and cover pleading regarding Gensym prior art.

⁷ See Exhibits D-12, D-15, D-17 to ServiceNow’s Invalidity Contentions and cover pleading regarding Patrol Diagnose prior art.

20. U.S. Patent No. 7,003,564 (“Greuel”)
21. Greuel and U.S. Patent No. 6,456,306 (“Chin”)
22. U.S. Patent No. 6,336,138 (“Caswell”) and Chin
23. U.S. Patent No. 6,138,122 (“Smith”) and Chin
24. SPECTRUM prior art⁸
25. SPECTRUM Service Manager prior art, U.S. Patent No. 7,596,716 (“Frost”), and U.S. Patent No. 7,216,304 (“Gourdol”)
26. U.S. Patent No. 7,890,869 (“Mayer”) and U.S. Patent No. 7,412,502 (“Fearn”)
27. Seeley, “NetCentric Application End-End Mission Effectiveness Metering and Visualization” (Feb. 2010)
28. BMC Impact prior art,⁹ Shneiderman, “Tree Visualization with Tree-Maps: 2-d Space-Filling Approach” (1992), and Shneiderman, “Discovering Business Intelligence Using Treemap Visualizations” (2006)
29. BMC Impact prior art and U.S. Patent Pub. App. No. 2006/0095461 (“Raymond”)
30. Fearn, Raymond, and Dillon, “Knowledge Visualization: Redesigning the Human-Computer Interface” (2005)
31. Office of Government Commerce, “Best Practice for Software Asset Management” (2003) (“ITIL SAM”) and BMC Remedy 7.0 prior art¹⁰
32. ServiceNow prior art¹¹ and ITIL SAM

⁸ See Exhibits E-7 to E-12 and E-14 to E-16 to ServiceNow’s Invalidity Contentions and cover pleading regarding SPECTRUM prior art.

⁹ See Exhibits G-9, G-30, G-31, and G-32 to ServiceNow’s Invalidity Contentions and cover pleading regarding BMC Impact prior art.

¹⁰ See Exhibit F-30 to ServiceNow’s Invalidity Contentions.

¹¹ See Exhibit F-18 to ServiceNow’s Invalidity Contentions.

33. ITIL SAM, U.S. Patent No. 8,321,948 (“Robinson”), U.S. Patent No. 7,660,731 (“Chaddha”), and U.S. Pat. App. Pub. 2008/0148253 (“Badwe”)

34. AssetCenter prior art¹²

35. AssetCenter prior art and U.S. Patent No. 5,671,412 (“Christiano”)

36. U.S. Patent No. 5,949,976 (“Chappelle”) and U.S. Patent No. U.S. 5,978,594 (“Bonnell”)

37. U.S. Patent No. 6,167,448 (“Hemphill”) and U.S. Patent No. 6,148,335 (“Haggard”)

38. Hemphill, Haggard, and Bonnell

39. Bonnell and Haggard

40. Bonnell, Haggard, and U.S. Patent No. 5,696,701 (“Burgess”)

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¹² See Exhibits F-20, F-21, F-23, F-24, and F-25 to ServiceNow’s Invalidity Contentions.

Dated: September 4, 2015

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that all counsel of record, who are deemed to have consented to electronic service are being served on this 4th day of September, 2015, with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.

/s/ Heidi L. Keefe

Heidi L. Keefe